

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

LARRY BANKS,

Petitioner,

v.

STU SHERMAN,

Respondent.

Case No. 1:20-cv-01225-EPG-HC

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

(ECF No. 3)

Petitioner is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has filed a motion for appointment of counsel. (ECF No. 3).

There currently exists no absolute right to appointment of counsel in habeas proceedings. See, e.g., Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986); Anderson v. Heinze, 258 F.2d 479, 481 (9th Cir. 1958). However, 18 U.S.C. § 3006A(a)(2)(B) authorizes the appointment of counsel at any stage of the proceeding for financially eligible persons if “the interests of justice so require.” See Rule 8(c), Rules Governing Section 2254 Cases. To determine whether to appoint counsel, the “court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.” Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983).

Petitioner argues that counsel should be appointed because the issues in this case are complex, he has no legal education or experience, and his work hours prevent him from fully

1 utilizing the law library. Petitioner has relied on other inmates to assist him. Upon review of the  
2 petition and the instant motion for appointment of counsel, the Court finds that with the  
3 assistance of other inmates, Petitioner appears to have a sufficient grasp of his claims and the  
4 legal issues involved and that he is able to articulate those claims adequately. The legal issues  
5 involved are not extremely complex, and Petitioner does not demonstrate a likelihood of success  
6 on the merits such that the interests of justice require the appointment of counsel at the present  
7 time. If, upon review of Respondent's response to the petition, the Court finds that the legal  
8 issues are more complex than they appear currently, the Court will revisit Petitioner's request for  
9 counsel.

10 Accordingly, IT IS HEREBY ORDERED that Petitioner's motion for appointment of  
11 counsel (ECF No. 3) is DENIED without prejudice.

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13 IT IS SO ORDERED.

14 Dated: **September 10, 2020**

15 /s/ Eric P. Grogan  
16 UNITED STATES MAGISTRATE JUDGE  
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